

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-212-W - ORDER NO. 98-600

AUGUST 7, 1998

IN RE:	Application of Upstate Heater Utilities, Inc. for Approval of a Transfer of its Water Utility to South Carolina Water and Sewer, L.L.C.)))))))))	ORDER DENYING REHEARING AND RECONSIDERATION
--------	---	-------------------------	---

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Rehearing and Reconsideration of our Order No. 98-541 of Chester G. Kapp (Kapp). In that Order, we denied Kapp's request for a public hearing in the matter of the sale of stock of Upstate Heater Utilities, Inc. (Upstate Heater) to Utilities of South Carolina, Inc. (the Company). In that Order, we held that the pertinent regulation, Regulation 103-704, pertains to the acquisition of "a utility system," i.e. the assets of a system, not to the purchase or acquisition of the stock of the utility which owns or operates the system. We further elaborated on the fact that there are no known statutes or regulations which directly authorize the Commission to undertake the kind of proceeding which Mr. Kapp requests.

In his Petition for Rehearing and Reconsideration, Mr. Kapp recited several alleged errors committed by this Commission in Order No. 98-541. First, Kapp states that we erred by failing to provide the underlying facts in support of the conclusion reached by this Commission. This is unavailing. The main fact supporting our holding is that we are without statutory or regulatory authority to grant the relief requested by Mr.

Kapp. We hold that this specifically supports our conclusion that his request for hearing should be denied. We further believe that this lack of authority covers all of Kapp's other allegations in his Petition. If this Commission has no authority to approve a stock transfer, then this is a jurisdictional matter, which precludes any action whatsoever with regard to the transfer of stock of this Company.


However, this Commission is deeply concerned about the allegations of Kapp's Petition, and we would like to obtain the necessary authority to regulate stock transfers, be it through the statutory or regulatory process. We hereby instruct Staff to look into what rule changes might be necessary in order to give this Commission the necessary jurisdiction in stock transfer matters.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Acting Executive Director

(SEAL)